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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,486	09/08/2000	Scott A. Burton	7780.612US01	2827

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EXAMINER

HAMILTON, LALITA M

ART UNIT PAPER NUMBER

3624

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/657,486

Applicant(s)

BURTON, SCOTT A.

Examiner

Lalita M Hamilton

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on april 27, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-15,17-22 and 30-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-15,17-22 and 30-55 is/are rejected.
- 7) ☒ Claim(s) 3 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Summary

On January 28, 2004, an Office Action was sent to the Applicant rejecting claims 1-3, 5-22, and 30-55. On April 27, 2004, the Applicant responded with arguments.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-11, 13-15, 18-22, and 30-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (5,733,570) in view of Jespersen (3,595,235).

Chen discloses the invention substantially as claimed; however, Chen does not disclose first and second absorbent layers wherein the wound dressing is configured to be positioned on a patient's wound such that the second absorbent layer is between the first absorbent layer and the wound; 10% by weight water before application to the patient; absorbency of less than 50% of the absorbency of the first absorbent layer; a second absorbent non-disintegrating layer in contact with the first absorbent layer; the first absorbent layer being between 10 to 50 mils thick; or the second absorbent layer being between 2 to 4 mils thick and apertures. Jespersen teaches a multilayer absorbent pad for use on wounds comprising first and second absorbent layers wherein the wound dressing is configured to be positioned on a patient's wound such that the second absorbent layer is between the first absorbent layer and the wound (fig.2: 12

and 14 and col.3, lines 30-42); less than 10% by weight water before application to the patient (Examiner interpreting as having less than 10% by weight water in order to absorb to maximum capacity); absorbency of less than 50% of the absorbency of the first absorbent layer (fig.2, 12 and 14-layer smaller than the other, so will have less absorbency); a second absorbent non-disintegrating layer in contact with the first absorbent layer (fig.2: 12 and 14); and the first absorbent layer being between 10 to 50 mils thick and the second absorbent layer being between 2 to 4 mils thick and apertures (between fibers—col.2, lines 15-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate first and second absorbent layers wherein the wound dressing is configured to be positioned on a patient's wound such that the second absorbent layer is between the first absorbent layer and the wound; less than 10% by weight water before application to the patient; absorbency of less than 50% of the absorbency of the first absorbent layer; a second absorbent non-disintegrating layer in contact with the first absorbent layer; and the first absorbent layer being between 10 to 50 mils thick and the second absorbent layer being between 2 to 4 mils thick and apertures, as taught by Jespersen into the device disclosed by Chen, to provide an absorbent dressing capable of absorbing maximum exudate.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen and Jespersen as applied to claim 5 above, and in further view of Dahmen (6,060,557).

Chen discloses and Jespersen teaches the invention substantially as claimed; however, neither reference discloses nor teaches the polar, ethylenically unsaturated

Art Unit: 3624

monomer comprising N-vinyl acetamide. Dahmen teaches a polymer for absorbing liquids comprising N-vinyl-acetamide (**col.3, lines 25-30**). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate N-vinyl-acetamide, as taught by Dahmen into the invention disclosed by Chen and taught by Jespersen, as an alternative polar, ethylenically unsaturated monomer.

Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Dahmen.

Chen discloses the invention substantially as claimed; however, Chen does not disclose the polar, ethylenically unsaturated monomer comprising N-vinyl acetamide. Dahmen teaches a polymer for absorbing liquids comprising N-vinyl-acetamide (**col.3, lines 25-30**). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate N-vinyl-acetamide, as taught by Dahmen into the invention disclosed by Chen, as an alternative polar, ethylenically unsaturated monomer.

#### ***Allowable Subject Matter***

Claims 3 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, appearing to read 'Lalita M. Hamilton', is written in black ink.

LMH